

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33740

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY—PETITION  
FOR DECLARATION OR PRESCRIPTION OF CROSSING, TRACKAGE, OR JOINT USE  
RIGHTS

Decided: October 17, 2003

By a decision served on May 13, 2003, the Board, inter alia, declared that The Burlington Northern and Santa Fe Railway Company (BNSF) is entitled under 49 U.S.C. 10901(d) to cross track owned and operated by the Keokuk Junction Railway Company (KJRY) near Keokuk, IA, to access BNSF's Mooar Line. The decision also directed the parties immediately to begin negotiations on a new crossing agreement and stated that, if the parties were unable to agree on compensation or other crossing terms within 30 days of the decision's effective date, the dispute should be submitted to the Board for a determination of terms under 49 U.S.C. 10901(d)(2). The decision became effective on June 12, 2003. By decisions served on July 21, 2003, August 13, 2003, and September 16, 2003, the parties' joint requests for extensions to continue negotiations were granted.

On October 14, 2003, BNSF and KJRY jointly requested a further extension of time until November 12, 2003, to continue negotiations. The request indicated that the parties have been negotiating in good faith, but have not completed their negotiations. The parties' request is reasonable and consistent with the Board's preference for private-sector negotiation and resolution of disputes. Therefore, the request will be granted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The deadline for submission of any disputed compensation or other crossing terms for Board resolution is extended until November 12, 2003.

2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary